

§ 59-37. Rules for determining the existence of a partnership.

In determining whether a partnership exists, these rules shall apply:

- (1) Except as provided by G.S. 59-46 persons who are not partners as to each other are not partners as to third persons.
- (2) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not of itself establish a partnership, whether such co-owners do or do not share any profits made by the use of the property.
- (3) The sharing of gross returns does not of itself establish a partnership, whether or not the persons sharing them have a joint or common right or interest in any property from which the returns are derived.
- (4) The receipt by a person of a share of the profits of a business is prima facie evidence that he is a partner in the business, but no such inference shall be drawn if such profits were received in payment:
 - a. As a debt by installments or otherwise,
 - b. As wages of an employee or rent to a landlord,
 - c. As an annuity to a widow or representative of a deceased partner,
 - d. As interest on a loan, though the amount of payment vary with the profits of the business,
 - e. As the consideration for the sale of a goodwill of a business or other property by installments or otherwise. (1941, c. 374, s. 7.)